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COMMITTEE AGAINST TORTURE

Sixth session

SUMMARY RECORD OF THE 82nd MEETING

Held at the Palais des Nations, Geneva,
on Friday, 26 April 1991, at 3 p.m.

Chairman: Mr. VOYAME

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The meeting was called to order at 3 p.m.

ACTION BY THE GENERAL ASSEMBLY AT ITS FORTY-FIFTH SESSION (agenda item 9)

(a) ANNUAL REPORT SUBMITTED BY THE COMMITTEE UNDER ARTICLE 24 OF THE CONVENTION

1. The CHAIRMAN said that the secretariat had prepared an informal note dated 21 March 1991, entitled "Action taken by the General Assembly at its forty-fifth session", summarizing the views expressed by various delegations in the Third Committee of the General Assembly at its thirty-fifth to forty-second meetings from 7 to 9 November and from 12 to 14 November 1990 (A/C.3/45/SR.35 to SR.42) on the work of the Committee against Torture.

2. At those meetings, the representatives of Australia and Bulgaria had raised the question of financial resources relating to the Convention and, in particular, the possibility of meeting all treaty body costs from the United Nations regular budget. The representative of Algeria had expressed the view that the annual reports of the Committee should receive wider publicity. Close contacts and exchanges of information between the Committee and the Special Rapporteur of the Commission on Human Rights on questions relating to torture had been encouraged by the representatives of Bulgaria, Italy, speaking on behalf of the 12 members of the European Community, and the Philippines. The representative of Bulgaria, inter alia, had welcomed the critical spirit in which the Committee had examined the legal aspects of the implementation of the Convention in national legislation and its clear view of the practical aspects of the prevention of torture. The representative of China had stated that the Committee should consider reports by States parties in a serious and impartial manner and in strict compliance with the provisions of the Convention; and the representative of the Netherlands had referred to conclusions of the Committee on individual communications which had been declared inadmissible because the laws in question had been enacted before the Convention had entered into force.

3. With regard to the latter statement, he noted that what the Committee had actually said was that, in the case of Argentina, the acts in question had occurred before the entry into force of the Convention. He also drew the attention of the members of the Committee to Commission on Human Rights resolutions 1991/35 and 1991/38 (E/CN.4/1991/L.11/Add.3) and to General Assembly resolution 45/142 on the report of the Committee against Torture and the status of the Convention.

4. Referring to the view that the work of the Committee should be given wider publicity, he asked whether there was anything the secretariat could do to further that aim.

5. Mr. HOUSHMAND (Representative of the Secretary-General) said that the Centre for Human Rights was currently making arrangements with United Nations information offices around the world with a view to ensuring that the documentation of the treaty bodies, including their final reports to the General Assembly, should be given the widest possible distribution, as

recommended in paragraph 69 of the report of the third meeting of persons chairing the human rights treaty bodies (A/45/636). In addition, various publications and fact sheets on the work of specific treaty bodies were under preparation or had recently been issued.

6. Ms. CHANET welcomed the information provided by Mr. Houshmand. The dissemination of reports was a problem that needed to be dealt with by all the human rights committees. The format of the reports was such as to make them inaccessible to the layman unaccustomed to the United Nations system. Perhaps the World Conference on Human Rights would provide an incentive for ensuring that documentation was presented in a more attractive way.

7. The CHAIRMAN said that he himself had always found the Committee's reports too long and somewhat indigestible. None the less, they followed the customary United Nations format, which it was not in the Committee's power to change. The Committee had taken note of the views expressed by the General Assembly regarding its work and hoped that the General Assembly would take àction to secure the implementation of the recommendation by the Australian representative in the Third Committee concerning the funding of the human rights bodies.

(b) WORLD CONFERENCE ON HUMAN RIGHTS

8. Mr. HOUSHMAND (Representative of the Secretary-General) said that General Assembly resolution 45/155 set forth the guidelines on the basis of which the agenda for the World Conference on Human Rights could be drawn up and established a Preparatory Committee for the Conference with a mandate to make proposals on its agenda, date, duration, venue, and participation, for consideration by the General Assembly. The first meeting of the Preparatory Committee would be held in Geneva from 9 to 13 September 1991. Resolution 45/155 also invited the expert bodies, and in particular the treaty monitoring bodies, to appoint either their chairmen or other members to participate in the activities of and make recommendations to the Preparatory Committee of the World Conference. The Committee against Torture should therefore appoint members to represent it in the Preparatory Committee. It should also be decided to what extent the Committee against Torture could contribute to the preparatory work for the Conference.

9. Mr. DIPANDA MOUELLE, supported by Mr. KHITRIN, Mr. BURNS and Mr. MIKHAILOV, proposed that the Chairman should be appointed to represent the Committee at the meeting of the Preparatory Committee.

10. Mr. SORENSEN supported that proposal. He pointed out that paragraph 67 of the report of the third meeting of persons chairing the human rights bodies (A/45/636) recommended that individual experts should prepare a detailed evaluation of the work of each of the treaty bodies as part of the background documentation for the Conference. The Committee should thus also give some thought to that task.

11. The CHAIRMAN thanked members of the Committee for the confidence they had expressed in him and took note of the need to prepare a document on the the Committee's work.

12. Mr. HOUSHMAND (Representative of the Secretary-General), replying to questions by the Chairman and by Mr. Mikhailov, confirmed that the Committee was entitled to appoint two representatives if it so wished.

13. Mr. MIKHAILOV, supported by Mr. DIPANDA MOUELLE and Ms. DIAZ PALACIOS, proposed that Ms. Chanet should be appointed to represent the Committee, together with the Chairman, at the first meeting of the Preparatory Committee on the World Conference on Human Rights.

14. It was so decided.

(c) EFFECTIVE IMPLEMENTATION OF INTERNATIONAL INSTRUMENTS ON HUMAN RIGHTS, INCLUDING REPORTING OBLIGATIONS UNDER INTERNATIONAL INSTRUMENTS ON HUMAN RIGHTS (A/45/636, annex)

15. The CHAIRMAN drew attention to General Assembly resolution 45/85 relating to the effective implementation of international instruments on human rights, the main provisions of which were summarized in the informal note prepared by the secretariat for the Committee's benefit, as were the relevant recommendations of the Third Committee. He reminded the members of the Committee that he had attended the first two meetings of persons chairing the human rights treaty bodies in 1988 and 1990 and had reported orally to the Committee on those meetings at its November 1990 session. The report of the third meeting was now available as document A/45/636. He invited the members to make comments that might assist the chairpersons at their next meeting in 1992.

16. Mr. SORENSEN, referring to the recommendation on the financing of the treaty bodies from the United Nations regular budget, as contained in paragraph 53 of document A/45/636, said that, if Member States were to be asked to become involved in the activities of a committee that might be critical of their systems, it might be unrealistic to require them to pay contributions. That was one further reason for financing the Committee's activities from the regular budget. With regard to the question of overdue country reports, he wondered whether the "appropriate" means referred to in paragraph 51 of document A/45/636 might include informing States parties that, if a report was more than two years overdue, the Committee would deal with the problems of the implementation of the Convention by other means.

17. Mr. BURNS said that he could understand Mr. Sorensen's concern and desire to apply some sort of sanctions, but thought that it would be inappropriate for the Committee unilaterally to take the action suggested.

18. Mr. KHITRIN agreed that a large number of countries had failed to fulfil their obligations, but thought that it was not possible for the Committee to bring pressure to bear on Member States. In his opinion, the Committee could not try through the use of sanctions to force States parties to submit reports.

19. Ms. DIAZ PALACIOS suggested that the Committee might bring pressure to bear on such States by publicizing the fact at press conferences that they had failed to meet the deadline for the submission of their reports.

20. The CHAIRMAN said that he supported the suggestion by Ms. Diaz Palacios.

21. Mr. SORENSEN noted that some national United Nations information centres were not fully acquainted with the Committee's activities and he therefore suggested that press releases should be sent to them.

22. Mr. HOUSHMAND (Representative of the Secretary-General) said that what Mr. Sorensen was suggesting was done automatically by the Department of Public Information. The United Nations information centres around the world were branch offices of the Department and the press releases prepared by press officers at various meetings were automatically sent by the Department to those centres. It might be possible to instruct the centres to arrange to have the press releases reproduced and distributed at the national and local levels.

23. The other treaty bodies also faced the problem of the need for wider publicity in trying to draw the attention of Member States to the situation of compliance or non-compliance by States parties with their reporting obligations. Sometimes, in addition to including in their annual reports to the General Assembly a list of the States which had not submitted their periodic reports, the treaty bodies designated their own members to establish personal contact with the representatives of the States concerned in order to impress on them the importance of urging their Government to take steps to prepare the reports to be submitted.

24. As was known, on several occasions, the Centre for Human Rights had organized information campaigns, training courses and workshops and every opportunity was taken to make the participants aware of the importance of the implementation measures adopted under the various treaties and of the reporting obligations of States parties. Training courses were also organized from time to time for Government officials appointed by their Government to prepare reports to treaty bodies within the United Nations system.

25. In that connection, he said that the Committee on the Elimination of Racial Discrimination, which had the largest number of overdue reports, had decided at its most recent session to resume consideration at its August 1991 session of earlier reports of a number of countries which had since failed to comply with their reporting obligations. In the meantime, the secretariat had been requested to invite the States concerned to submit updated information by a certain date and to invite their representatives to attend the Committee's meetings in order to discuss issues relating to the implementation of the Convention in those States. The fact that the Committee had decided to resume consideration of older reports was tantamount to bringing pressure to bear on the reporting States, since the information relating to those States would be discussed on the basis of previous information made available to the Committee.

26. Mr. BURNS said that the Committee should adopt Ms. Diaz Palacios's suggestion and hoped that, by persuasion rather than sanctions, it would be able to induce States to comply with the terms of the Convention.

27. Mr. HOUSHMAND (Representative of the Secretary-General), replying to a point raised by Mr. Perlas concerning the need for briefing newly elected members of treaty bodies, said it was hoped that the members of the newly established Committee on the Rights of the Child could be brought to Geneva informally in the latter part of May 1991 for the purpose of briefing them before that Committee's first session, scheduled to be convened in September.

28. In the case of Committees that had been functioning for a number of years, new members were usually briefed on an informal basis by senior members. It had not been possible to make any structural arrangements for the purpose of institutionalizing such briefings, but the secretariat would prepare a comprehensive file for new members in order to enable them to be fully informed of the work of the Committee concerned.

29. Mr. PERLAS said that, in fact, the members of the Committee had been very helpful in briefing him about the Committee's work and he expressed his gratitude to them.

30. The CHAIRMAN recalled that the persons chairing the human rights treaty bodies had recommended that the members of each Committee should receive the reports of the other Committees and that it might be useful for each Committee to appoint members to establish contacts with each of the other Committees. He would welcome information from the secretariat concerning those recommendations.

31. Mr. HOUSHMAND (Representative of the Secretary-General) said that the secretariat had all the reports of the various treaty bodies and could distribute any documents or reports of a treaty body on a regular and systematic basis to members of the Committee.

32. The recommendation that members should be appointed as liaison officers to follow the activities of other treaty bodies was a useful one and the Committee on the Elimination of Racial Discrimination had already taken a decision along those lines by appointing one or two of its members to follow the work of the Committee against Torture. In his opinion, it would be very helpful if all the treaty bodies appointed such members. The secretariat would, of course, assist them by making the necessary documentation and information available to them.

33. Ms. CHANET said that it was not essential to have all the documents of the other Committees, but it would be useful to receive the annual reports of the Human Rights Committee.

34. The CHAIRMAN suggested that Mr. Houshmand might make arrangements for the Committee to receive the annual reports of the Human Rights Committee automatically and those of other treaty bodies on request.

35. Ms. CHANET said that a member of the Committee on the Elimination of Racial Discrimination had already contacted her about liaison between the two Committees. Such liaison seemed a good idea, but flexibility was essential.

36. Mr. SORENSEN said that, if all members received the reports of all the other human rights committees, no one would read any of them. He suggested that all members should receive the report of the Human Rights Committee and that, in addition, each member should choose one of the other Committees and study its report in detail.

37. The CHAIRMAN suggested that Ms. Chanet should be responsible for liaison with the Human Rights Committee, although all the members would receive its report.

38. Mr. SORENSEN suggested that it might be quicker if the Chairman and the Secretary of the Committee drew up a draft list of members to take responsibility for liaison with other Committees.

39. It was so decided.

40. Mr. SORENSEN, referring to the question of training for new members of the Committee, said that the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment set aside time for such training, although it included some subjects, such as how to conduct a prison visit, which did not concern the Committee against Torture. If several new members joined the Committee at once, the Committee might set aside one or two hours for a general introduction to its work and the concept of torture.

41. Ms. DIAZ PALACIOS said that any exchange of contacts and information would be greatly assisted by computerization of all United Nations human rights work. It would be much simpler, for instance, if members could consult a data bank in order to study the reports submitted by a State party to other human rights committees.

42. Mr. HOUSHMAND (Representative of the Secretary-General) said that computerization was, of course, the real answer to the problems of coordination between the human rights committees. A task force had recommended that, as an initial step, the information relating to the treaty monitoring bodies should be entered in a data bank. States parties would be asked for voluntary contributions to finance the computer hardware and initial training and the small annual running cost would be met from the regular budget. That proposal was now awaiting approval by the Advisory Committee on Administrative and Budgetary Questions and the Fifth Committee of the General Assembly and it was hoped that it would be included in the budget for the biennium 1992/93. There were plans to computerize the rest of the United Nations human rights system in due course.

(d) CONSOLIDATED GUIDELINES FOR THE INITIAL PART OF THE REPORT OF STATES PARTIES (CAT/C/4/Rev.1; CAT/C/L.5; A/45/636, appendix)

43. Mr. BRUNI (Secretary of the Committee) recalled that the Committee had considered the draft consolidated guidelines (CAT/C/L.5) at its fourth session and adopted them, with minor amendments. The consolidated guidelines had now been adopted by the General Assembly (A/45/636, appendix). Accordingly, the Committee should amend its own general guidelines for the preparation of initial reports (CAT/C/4/Rev.1) by deleting part I, paragraphs (c) and (e), which were already covered by the consolidated guidelines.

44. It was so decided.

45. The CHAIRMAN said that the Committee had now concluded its consideration of agenda item 9.

The meeting was suspended at 4.45 p.m. and resumed at 5 p.m.

SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (continued)

Draft general guidelines regarding the form and contents of periodic reports

46. The CHAIRMAN invited the Committee to consider the draft general guidelines contained in document CAT/C/Misc.7, which read:

"Note by the Chairman

DRAFT GENERAL GUIDELINES REGARDING THE FORM AND CONTENTS OF PERIODIC REPORTS TO BE SUBMITTED BY STATES PARTIES UNDER ARTICLE 19, PARAGRAPH 1, OF THE CONVENTION

1. Under article 19, paragraph 1, of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 'the States Parties shall submit to the Committee against Torture, through the Secretary-General of the United Nations, reports on the measures they have taken to give effect to their undertakings under the Convention, within one year after the entry into force of the Convention for the State Party concerned. Thereafter the States Parties shall submit supplementary reports every four years on any new measures taken and such other reports as the Committee may request'.

2. The general guidelines for the submission of periodic reports appearing below would assist the Committee to fulfil the tasks entrusted to it pursuant to article 19 of the Convention.

3. Periodic reports by States parties should be presented in two parts, as follows:

- Part I: Information on any new measures taken to implement the Convention

(a) This part should describe in detail any new measures taken by the State party to implement the Convention during the period extending from the date of submission of its previous report to the date of submission of the periodic report to be considered by the Committee.

(b) The information on any new measures taken should be submitted by the State party in accordance with the sequence of articles 1 to 16 of the Convention and their respective provisions.

(c) The State party should provide, in particular, information concerning:

(i) any change in the legislation and in the institutions that affects the implementation of the Convention on any territory under its jurisdiction;

(ii) any new case law of relevance for the implementation of the Convention;

(iii) specific cases of torture as well as complaints, inquiries, indictments, proceedings, sentences, reparation and compensation for acts of torture and other cruel, inhuman or degrading treatment or punishment;

(iv) any difficulty which would prevent a State party from discharging the obligations which it has assumed under the Convention.

- Part II: Additional information requested by the Committee

This part should contain any information requested by the Committee during its consideration of the preceding report by the State party, unless it has been provided by the representatives of the Government of the State party, either in a subsequent communication by the Government or in an additional report which the Government has presented in accordance with rule 67, paragraph 2, of the rules of procedure of the Committee.".

47. Mr. SORENSEN said that he supported the draft general guidelines, but thought that it was very important to mention specifically the education and training given to law enforcement officers. Such a reference could be included in paragraph 3 (c) (i), which dealt with changes in legislation and institutions.

48. Ms. DIAZ PALACIOS suggested that a specific reference to prisons should be included in the same paragraph.

49. Mr. SORENSEN pointed out that a specific reference to prisons would exclude police stations, where most acts of torture occurred.

50. The CHAIRMAN, supported by Mr. DIPANDA MOUELLE, suggested that the words "detention centres" would cover both prisons and police stations.

51. Ms. CHANET, said that she endorsed the draft general guidelines, but pointed out that paragraphs 2 (a) and (b) asked for general information on "any new measures taken", while paragraph 3 (c) requested specific information on legislation, case law and cases of torture. Surely it would be better to reverse the two paragraphs, asking for specific information first and any other general information afterwards.

52. The CHAIRMAN said that paragraph 3 (a) called for information about "new measures", while paragraph 3 (c) (iii) referred to "specific cases", which was not the same thing. Perhaps paragraph 3 (a) should be amended to include both.

53. He suggested that a new draft of the guidelines should be prepared on the basis of the members' comments and considered at a later meeting.

54. It was so decided.

ORGANIZATIONAL AND OTHER MATTERS (continued)

55. The CHAIRMAN said that two new reports had been submitted for consideration by the Committee, namely, the reports of Australia and Bulgaria. He informed the Committee that Mr. Burns and Mr. Perlas and Mr. Khitrin and Ms. Chanet had offered to act as Country Rapporteurs and Alternate Country Rapporteurs for the reports of Australia and Bulgaria, respectively.

The meeting rose at 5.20 p.m.